

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2008 Legislative Session**

Legislative Day # 8

**BILL NO. 2008-08**

**Introduced by:** Charles County Commissioners

**Date introduced:** 05 / 21 / 2008

**Public Hearing:** 06 / 11 / 2008

**Commissioners Action:** 06 / 18 / 08 Passed

**Commissioner Votes:** WC: Y, EP: Y, RC: Y, SG: Y, GH: Y

**Pass/Fail:** Pass

**Effective Date:** 06 / 28 / 08 12:01 a.m.

**Remarks:** \_\_\_\_\_

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2008 Legislative Session**

Bill No. 2008-08

Chapter. No. 297

Introduced by County Commissioners

Date of Introduction May 21, 2008

**BILL**

AN ACT concerning:

**School Adequate Public Facilities Zoning Revisions**

FOR the purpose of:

Amending Zoning provisions governing the factors to be considered by the School Capacity Allocation Committee in determining the appropriate allocation of school capacity to development projects and making certain clarifications.

BY amending:

Chapter 297: Zoning Regulations  
Article XVI , § 258. Schools.  
*Code of Charles County, Maryland*  
(June 2006 Edition)

**SECTION 1.** BE IT ENACTED BY THE COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as follows:

**§ 297-258. Schools.**

A. This section applies to all residential developments except certain residential developments known as retirement housing complexes and certain residential developments in the following planned development zones: the Planned Residential Development Zone (PRD); the Planned Unit Development Zone (PUD); the Mixed-Use Development Zone (MX); the Planned Manufactured Home Park (PMH); The Waterfront Planned Community (WPC); or the Transit-Oriented Development Zone (TOD), as defined in the Charles County Zoning Ordinance. In order to qualify for these exemptions, the developments within these zones shall be restricted by deed to the residency of at least one individual 55 years of age or older and exclude permanent occupancy by anyone under the age of 21 and that also have further deed restriction which shall include each of the following: **[Amended 9-24-2001 by Ord. No. 01-80; 6-17-2003 by Ord. No. 03-04; 10-3-2005 by Ord. No. 05-18<sup>1</sup>]**

- (1) No dwelling unit may be occupied by any individual under the age of 21 for more than 30 days in any six-month period.
- (2) Each dwelling unit shall be occupied following its sale or lease by at least one individual 55 years of age or older. Individuals aged 21 or older may reside in the development as long as they occupy a dwelling unit with an individual aged 55 years or older, and will be allowed to remain in the dwelling unit following the death, divorce or incapacity of the individual aged 55 years or older as long as the number of residences occupied by such households does not exceed 20% of the total occupied dwelling units within the development. No new individuals aged 21 to 54 can move into the dwelling unit after the death, divorce or incapacitation of the individual aged 55 years or older.
- (3) In order to insure continuous compliance with the age restrictions, each contract of sale or lease agreement for the varying housing types within the development will require certification of the household composition, i.e., the name and birth date of each resident. Each household shall re-certify its composition (i.e., the name and birth date of each resident) on an annual basis. The entity with

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<sup>1</sup> **Editor's Note: The transition provision of the ordinance provide:**  
“The adoption of this bill shall not invalidate any preliminary plan for an age-restricted residential development that was approved by the Planning Commission prior to the date of adoption of this bill, provided that a final plat for said development shall be recorded not later than one year from the effective date of this bill.”

management responsibilities or the homeowners' association for the development shall submit, on an annual basis, to the Director of Planning and Growth Management a letter certifying and documenting the composition (i.e. The name and birth date of each resident) and compliance of each household in the development.

- (4) The entity with management responsibilities or the homeowners' association for the development shall be required to enforce the covenants and shall be prohibited from electing to waive its enforcement rights and obligations.
  - (5) The Charles County Commissioners shall be designated as a beneficiary of the covenants based upon their agreement to exempt the development from the obligation to pay the fair share school construction excise tax or an impact fee for school capacity and for the sole purpose of empowering Charles County with the right to enforce the covenants. The damages incurred by Charles county in the event of the entity with management responsibilities or the homeowners' association's failure to enforce the covenants described in § 297-258A will include, but not be limited to, the amount of the fair share school construction excise tax or impact fee that would have been assessed for the entire development if the development had not been exempt from the fair share school construction excise tax or impact fee.
  - (6) Once the age-restricted housing development has been approved for exemption from the County's School Allocation Policy and the school construction excise tax, the Department of Planning and Growth Management shall notify the Charles County Board of Education of said exemption.
- B. No final plat for a residential subdivision or development service permit for a residential site plan shall be approved until school capacity allocation has been granted by the Director of Planning and Growth Management. School capacity will be deemed adequate upon the granting of a school capacity allocation. It is the intent of this chapter that the capacity of public schools shall not adversely affect by residential development.
- C. The annual School Capacity Allocation Committee, composed of the Charles County Commissioners and the Charles County Board of Education, and/or their designated representatives, will meet to decide on the appropriate allocations for the upcoming year. This Committee will consider the following factors, as well as any other information deemed pertinent, in establishing the allocatable school capacity for the upcoming year:
- (1) Current enrollments.
  - (2) Projected enrollments.
  - (3) Current capacities of individual schools.

- (4) [County-wide capacity at each level of school.]
  - (5) Capacity to be provided [within the next five years] by any current **CAPITAL IMPROVEMENT PROGRAM** (CIP) projects.
  - (6) Additional capacity provided by the use of relocatable classrooms within the Board of Education's relocatable classroom policy guidelines.
  - (7) Current district boundaries for school attendance and redistricting opportunities within the Board of Education's policy guidelines.
  - (8) Residential development and growth within the incorporated towns which will impact the enrollments at county schools.
  - (9) Number of lots from minor subdivisions recorded in previous year.
  - (10)[Core capacities of each school facility.]
- D. When determining the amount of allocatable school capacity, allocation may be made only if school capacity currently exists or is programmed to exist under the then applicable capital improvement projects program [within the next five years.] **AS SPECIFIED IN THE ADOPTED ADEQUATE PUBLIC FACILITIES MANUAL.**
- E. Allocation amounts may not exceed the amount of capacity available in the allocatable school capacity currently in effect. These allocation amounts shall be **DETERMINED BY THE COUNTY COMMISSIONERS USING** [based on] the factors listed in Subsection C above **AS GUIDANCE.**
- F. The granting of school capacity allocations shall be in accordance with the policies and procedures established in the adequate public facilities manual **ADOPTED BY THE COUNTY COMMISSIONERS.**
- G. The fair share school construction excise tax adopted by Ordinance 02-97 shall not apply to those projects exempted under Subsection A of this section. **[Added 6-17-2003 by Ord. No. 03-04; amended 10-3-2005 by Ord. No. 05-18]**

**Section 2.** Be it further enacted, that this act shall take effect [ten (10)] calendar days after it becomes law.

COUNTY COMMISSIONERS OF  
CHARLES COUNTY, MARYLAND

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Wayne Cooper, President

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Edith J. Patterson, Vice President

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Reuben B. Collins, II

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Samuel N. Graves, Jr.

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Gary V. Hodge

ATTEST:

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Denise Ferguson, Clerk